

The opinion in support of the decision being entered today is not binding  
precedent of the Board.

Filed by: Merits Panel  
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Paper 41

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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DOW CHEMICAL COMPANY

Junior Party,  
(U.S. Patent 5,527,929<sup>1</sup>)

v.

BASELL POLYOLEFINE GmbH

Senior Party.  
(Application 09/851,643<sup>2</sup>)

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Patent Interference 105,250

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Before: HANLON, TORCZON, and MOORE, Administrative Patent Judges.

HANLON, Administrative Patent Judge.

**JUDGMENT – MERITS – BD.R. 127(a)**

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<sup>1</sup> The inventors of U.S. Patent 5,527,929 are Francis J. Timmers and David D. Devore. Paper 24 at 1.

<sup>2</sup> The inventors of Application 09/851,643 are Gerhard Erker, Bodo Temme, Michael Aulbach, Bernd Bachmann, and Frank Kuber. Paper 24 at 2.

FURTHER ORDERED that the Junior party is not entitled to a patent containing claims 1 through 3 of U.S. Patent 5,527,929, which are designated as corresponding to the count; and it is

|                                    |   |                 |
|------------------------------------|---|-----------------|
|                                    | ) |                 |
| <u>/ss/ Adriene Lepiane Hanlon</u> | ) |                 |
| ADRIENE LEPIANE HANLON             | ) |                 |
| Administrative Patent Judge        | ) |                 |
|                                    | ) |                 |
|                                    | ) | BOARD OF PATENT |
| <u>/ss/ Richard Torczon</u>        | ) | APPEALS AND     |
| RICHARD TORCZON                    | ) | INTERFERENCES   |
| Administrative Patent Judge        | ) |                 |
|                                    | ) |                 |
|                                    | ) |                 |
| <u>/ss/ James T. Moore</u>         | ) |                 |
| JAMES T. MOORE                     | ) |                 |
| Administrative Patent Judge        | ) |                 |

ALH/alh

cc (via electronic mail):

For Dow Chemical Co.: **Douglas N. Deline**, DOW CHEMICAL COMPANY of Midland,  
Michigan, with **Aaron Barlow** and **Shehla F. Syed**, JENNER & BLOCK LLP of  
Chicago, Illinois.

For Basell Polyolefine GmbH: **Ashley I. Pezzner** and **Rudolf E. Hutz**, CONNOLLY, BOVE &  
HUTZ LLP of Wilmington, Delaware.

**Townes, Yolunda**

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**From:** Townes, Yolunda on behalf of Interference Trial Section  
**Sent:** Thursday, September 22, 2005 8:42 AM  
**To:** 'Rudolf E. Hutz (CONNOLLY BOVE)'; 'apezzner@cblh.com'; 'ddeline@dow.com';  
'abarlow@jenner.com'  
**Subject:** Interference #105250\_041 (ALH) - Judgment-Merits-Bd.R. 127(a)

9/22/05